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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NEIL MATHER and ALAN ROBERTS, *as*  
*Liquidators of Carlyle Capital Corporation*  
*Limited (in Liquidation),*

Plaintiffs,

- v -

CARLYLE INVESTMENT MANAGEMENT  
LLC et al.,

Objectors.

16 Misc. 6 (P1)

ORDER

PAUL A. ENGELMAYER, District Judge:

On January 8, 2016, the Part 1 Court granted the Liquidators' § 1782 application for judicial assistance to issue a deposition subpoena to Patrick Trozzo. Mr. Trozzo was the Chief Risk Officer of Carlyle Capital Corporation ("CCC"), which is in liquidation in Guernsey, one of the Channel Islands. Mr. Trozzo resides in New York.

On January 26, 2016, the Carlyle Guernsey Defendants ("Carlyle") filed an objection seeking to vacate the Part 1 Court's order and quash the deposition subpoena to Mr. Trozzo, or in the alternative to allow the Guernsey Defendants to participate in the deposition. On February 3, 2016, the former independent directors of CCC (together with Carlyle, "the Guernsey Defendants") also filed an objection on the same grounds. On February 9, 2016, the Liquidators filed an opposition and cross-motion for an order permitting the deposition to proceed as a confidential examination without the participation of the Guernsey Defendants. On February 17, 2016, Carlyle and the former independent directors filed oppositions to the Liquidators' cross-motion. On February 19, 2016, the Liquidators filed a reply in support of their cross-motion. On

February 22, 2016, the Court issued an Order stating that it was “entertaining the prospect of permitting the deposition to go forward, on the condition that counsel for the Carlyle Guernsey Defendants be permitted to attend” and directing counsel to confer with the goal of agreeing as to the date and place of such a deposition. On February 22, 2016, counsel for Carlyle entered an appearance on behalf of Mr. Trozzo and Mr. Trozzo filed a joinder in Carlyle’s motion.

On February 23, 2016, the Court heard oral argument on (a) the motions to vacate the Part 1 Court’s order granting the Liquidators’ § 1782 application and to quash the Liquidators’ deposition subpoena to Mr. Trozzo, or in the alternative to allow the Guernsey Defendants to participate in the deposition, and (b) the Liquidators’ cross-motion for an order permitting the deposition to proceed as a confidential examination without the participation of the Guernsey Defendants. Having heard oral argument and reviewed the parties’ memoranda of law and the applicable case law,

IT IS HERBY ORDERED THAT:


1. For the reasons articulated on the record at the February 23, 2016 hearing, the Guernsey Defendants’ motions to vacate the January 8, 2016 order (Dkt #s 6 & 15) are GRANTED in part and DENIED in part, and the Liquidators’ cross-motion for a confidential deposition (Dkt # 22) is DENIED.
2. The Court ORDERS that the deposition of Mr. Trozzo shall proceed on the condition that counsel for Carlyle and the independent directors be permitted to attend and participate.
3. The deposition of Mr. Trozzo shall take place on March 30, 2016, at the offices of Friedman Kaplan Seiler & Adelman LLP, as agreed by counsel for Mr. Trozzo, the Liquidators,

Carlyle, and the independent directors. The date shall not be changed absent further order of this Court or agreement of counsel.

4. This Court will retain jurisdiction in connection with the deposition of Mr. Trozzo.

5. All parties shall bear their own costs.

SO ORDERED.

  
Paul A. Engelmayer  
United States District Judge

Dated: February 26, 2016  
New York, New York